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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,293	04/14/2009	Ilkka Kojo	OUTT 3501	2363
7812 7590 07/19/2011 CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP 601 SW Second Avenue, Suite 1600 Portland, OR 97204				
EXAMINER				
ABOAGYE, MICHAEL				
ART UNIT		PAPER NUMBER		
1733				
MAIL DATE		DELIVERY MODE		
07/19/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/585,293

**Applicant(s)**

KOJO, ILKKA

**Examiner**

MICHAEL ABOAGYE

**Art Unit**

1733

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 28 June 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 27-34.  
Claim(s) withdrawn from consideration: 35-41.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/M. A./  
Examiner, Art Unit 1733

/Scott Kastler/  
Primary Examiner, Art Unit 1733

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's remarks/arguments in the response filed 06/28/2011 remain unpersuasive for the same reasons set forth in the Final Office Action mailed 04/04/2011. In addition Okomoto et al. discloses a suspension smelting furnace contrary to Applicant's assertion, because Applicant's own specification page 1 defines a suspension smelter or furnace as an apparatus for producing matte or metal from finely divided metal concentrates, with the concentrate fed into the reaction shaft via the top part of the shaft; and the apparatus of Okomoto et al. is specifically defined and/or shown as such in paragraph 1, lines 5-11, and figure 1. Applicant also submitted that Okomoto et al. in column 4, line 15-22 refers to the particles being supplied to the oxygen burner 12 by using air as a carrier gas; however such wording does not suggest that the particles are lifted from a lower elevation to a higher elevation and is entirely consistent with the particles being transported along a horizontal pipe or a pipe sloping downward from the outlet of the iron ore bin to the burner 12. It should be pointed out that claim 27 does not necessarily recite said limitation i.e. "the particles are air lifted from a lower elevation to a higher elevation" as indicated, but rather recites "a pneumatic conveyor positioned to receive the fine-grained material from the feed control unit and adapted to transport the fine-grained material to the concentrate burner"; and figure 1 of Okomoto et al. as illustrated, clearly suggest such claimed limitations. Furthermore figure 1 of Okomoto et al. shows particles being supplied from the bottom of the bin to the top of the oxygen burner 12 at a higher elevation by using air as a carrier gas. For these reasons the final rejections of claims 27-34 are maintained.